2004 Advisory Committee on Privacy
Final Report Talking Points

I.   Membership
- Co-Chaired by Delegate May, Senator Watkins, Delegate Alexander
- Composed of 12 citizen members from the public and private sectors who possess a wide variety of experiences and knowledge.
- Met four times: July 7, August 18, October 6 and November 17.
- The Advisory Committee on Privacy was charged with (i) reviewing current privacy laws and practices as they pertain to information and (ii) proposing policies and guidelines for public bodies to evaluate the use of potentially invasive technologies when determining whether to support their use financially or to authorize or prohibit their use.

II.   Meetings
- Presentation on Event Data Recorders, Radio Frequency Identification, Tracking Technologies for 911, Spyware and Facial Recognition Technology.
- Discussed privacy of court records and heard a presentation on behalf of the Court Clerks Association.
- Committee review and discussion of selected privacy-oriented bills from the 2004 Session:
    - ✓ HB 1304 (Lingamfelter). Invasive Technologies.
        - During the 2004 Regular Session, the House Committee on Science and Technology (HCST) considered and carried over a bill that would have required public bodies to conduct a privacy impact analysis when authorizing or prohibiting the use of invasive technologies
    - ✓ HB 697 (Morgan). Event Data Recorders
        - During the 2004 Regular Session, the House Committee on Science and Technology (HCST) considered and carried over a bill that would have required manufacturers of vehicles equipped with recording devices to disclose that fact in the owner's manual.
    - ✓ HB 753 (May). Misuse of Social Security Numbers
        - Amends the Personal Information Privacy Act to prohibit intentionally communicating or otherwise making available an individual's social security number to the general public, printing it on any card required to access goods or services, printing it on anything mailed if it is visible from the outside, or requiring its use in an unsecure manner.
        - The House Committee on Science and Technology carried over this bill, a JCOTS recommendation, during the 2004 General Assembly and asked JCOTS to continue studying it. This measure limits the appearance of a key identifier for access to financial and medical records as a means of

addressing both privacy and identity theft concerns. It adopts best practices that already are required of certain industries.

- ✓ HB 543 (May). Unique Identifying Numbers
  - ▪ Requires public records be configured to prevent disclosure of more than the last four digits of any unique identifying financial or personal number, including, but not limited to, social security number, bank account number, credit card number or driver's license number prior to being made available for general public inspection. Also prevents filing or creating public records that contain more than the last four digits of any unique identifying financial or personal number, including, but not limited to, social security number, bank account number, credit card number or driver's license number.
  - ▪ During the 2004 Regular Session, the General Assembly passed HB 543, a JCOTS recommendation, with a reenactment clause. JCOTS continues to study this issue. This measure limits the appearance of key identifiers for access to financial records as a means of addressing both privacy and identity theft concerns.
- • Other Legislative Proposals Discussed
  - ✓ FOIA Exemption for Unique Identifying Numbers
    - ▪ Enables public records be configured to prevent disclosure of a unique identifying financial or personal number, including, but not limited to, social security number, bank account number, credit card number or driver's license number prior to being made available for general public inspection, unless the disclosure is required or allowed by law.
  - ✓ Social Security Numbers on Land Records
    - ▪ Requires that any document to be recorded in the deed books of any Circuit Court clerk's office not contain a complete social security number after July 1, 2005.
    - ▪ Based on a suggestion to the 2003 Advisory Committee on Consumer Protection that § 17.1-227 of the Code of Virginia be amended to add the requirement that any document to be recorded in the deed books of any Circuit Court clerk's office not contain a social security number after July 1, 2004. The 2004 General Assembly gave the Clerks the authority to reject a document with a social security number and placed the burden on the drafting attorney.
    - ▪ This bill would prohibit a document being filed in the land records from having a social security number. Attorneys would have to certify compliance on the document.

- ✓ Personal Information on Negotiable Instruments
  - ▪ Limits the personal identification information that can be required as a condition of accepting a negotiable instrument.
  - ▪ During the 2004 Regular Session, the General Assembly passed HB 1424, a bill that restricts the use of birth dates (month and day only) on checks. This proposal is a natural extension of that bill and restricts the use of personal information on all negotiable instruments that can be used to commit financial fraud and identity theft. This measure limits the use of key information for access to financial records as a means of addressing both privacy and identity theft concerns.
- ✓ Reporting Security Breaches
  - ▪ Requires any state agency or business that owns or licenses a computerized database that includes personal information to disclose a breach of the security of that system to any resident of the Commonwealth whose unencrypted personal information may have been acquired by an unauthorized person.
- ✓ Court Clerks request to extend the sunset date on posting restrictions
- ✓ DMV request for a study of use of biometrics for identification

III. Recommendations
- A bill that limits the private sector's display of social security numbers (HB 753 from 2004, as amended)
- A bill that extends the sunset on posting restrictions for the courts
- Adopting DMV's request for a study on the use of biometrics